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11 **Attorneys for the Government of Guam**

12 **FILED**
13 **DISTRICT COURT OF GUAM**
14 **NOV 29 2006** X
15 **MARY L.M. MORAN**
16 **CLERK OF COURT**

17 **IN THE DISTRICT COURT OF GUAM**
18 **TERRITORY OF GUAM**

19 JULIE BABAUTA SANTOS, et al.,) CIVIL CASE NO. 04-0006
20 Plaintiffs,)
21 vs.) STATUS REPORT OF THE OFFICE OF F
22) ATTORNEY GENERAL
23 FELIX A. CAMACHO, et al.,)
24 Defendants.)
25 _____
26 CHARMAINE R. TORRES, et al.,) CIVIL CASE NO. 04-00038
27 Plaintiffs,)
28 vs.)
29 GOVERNMENT OF GUAM, et al.,)
30 Defendants.)
31 _____
32 MARY GRACE SIMPAO, et al.,) CIVIL CASE NO. 04-00049
33 vs.)
34 Plaintiffs,)
35 GOVERNMENT OF GUAM,)
36 Defendant,)
37 vs.)
38 FELIX P. CAMACHO, Governor of Guam)
39 Intervenor-Defendant.)
40 _____
41 _____

1 Pursuant to the Courts Order of November 28, 2006, the Office of the Attorney General
2 herewith submits its status report:

3 The present case is the consolidation of *Julie Babauta Santos, et al v. Felix A.*
4 *Camacho, et al*, CIV No. 04-00006, filed on February 12, 2004, *Torres v. Government of*
5 *Guam, et al*. CIV No. CV04-00038, filed on August 9, 2004 and *Simpao v. Government of*
6 *Guam*, CV04-00049, filed in December 2004.

7 In the early stages of *Santos*, the Attorney General represented the Governor and the
8 Directors of the Department of Revenue & Taxation and Administration (“Directors”) In June,
9 2004, while the Governor was off-island, the Attorney General and the Acting Governor
10 negotiated as settlement of *Santos* for \$60 million. When the Governor returned to Guam, the
11 Governor and the Attorney General held discussions regarding the legality of the proposed
12 settlement. In response to those discussions, the Governor instructed the Attorney General to
13 take no action in furtherance of the settlement until the issues concerning the legality of the
14 settlement could be resolved.

15 Thereafter, the Attorney General filed another pleading regarding implementation of
16 the settlement. The Attorney General disclosed that the Governor disagreed with various
17 aspects of the Agreement, and had purportedly instructed the Attorney General not to file
18 pleadings on his behalf without his permission. The Attorney General claimed that his client
19 was the people of Guam, not the Governor. The Governor and Directors then filed
20 appearances through new counsel and stated their objections to the settlement. The Attorney
21 General next moved to strike the appearances of the new counsel.

22 Meanwhile, the Attorney General subpoenaed his former clients, the Governor and the
23 Directors of the GovGuam Retirement Fund. On February 9, 2005, the court denied the
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1 Attorney General's Motion to strike and uphold the right of the Governor and Directors to
2 retain independent counsel.

3 On March 2, 2005, the court denied a motion to reconsider its February 9, 2005 Order.
4 See March 2, 2005 Order. On August 12, 2005, Chief Judge Marshall of the Central District of
5 California, sitting by Designation in Guam, denied the Attorney General's challenge to the
6 February 9, 2005 Order and March 2, 2005 Order.

7 On February 16, 2005, the Governor moved to disqualify the Attorney General from
8 this action. While that motion was pending, the Governor and Directors reached a binding
9 term sheet to settle *Santos*. However, the Attorney General refused to settle.

10 Meanwhile, in *Simpao*, the court granted the plaintiffs summary judgment on the issue
11 of whether the Earned Income Credit applies to Guam. In ruling on this issue, the court
12 considered the Attorney General's concession that the Earned Income Credit does not apply to
13 Guam. This concession was contrary to the Governor's position; also the Governor had his
14 own settlement proposal in *Santos*. Also in *Simpao*, the Attorney General conceded the issue
15 of class certification. On September 12, 2005, the court granted the Governor intervention in
16 *Simpao* to protect his interests in the case.

17 On September 19, 2005, the magistrate judge denied the Governor's Motion to
18 Disqualify the Attorney General from this action. The Governor then filed objections to that
19 order.

20 In his *Order Re: Objections to Magistrate Order of September 19, 2005*, Judge
21 Martinez upheld the Governor's objections and ousted the Attorney General from
22 representation of the Government of Guam in these cases. However, in a footnote, Judge
23 Martinez noted the possibility of a motion to certify the issue as to the representation of the
24 "Government of Guam" to the Ninth Circuit for interlocutory appeal. On March 31, 2006, the

1 Attorney General filed a Petition for Permission to Appeal in the Ninth Circuit Court of
2 Appeals. No. 06-80042. On June 22, 2006, the Ninth Circuit filed an *Amended Order* stating
3 that the petition for permission to appeal was denied.

4 The upshot of the foregoing is that the Attorney General is no longer participating in
5 any capacity in these cases.

6 Dated this 29th day of November, 2006.

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Douglas B. Moylan, Attorney General

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